

Open Systems Lab

[NAME OF CUSTOMER CONTACT]
[CUSTOMER'S FULL COMPANY NAME]
[CUSTOMER'S ADDRESS]

[DATE]

Dear [NAME OF CUSTOMER CONTACT]

PlanX Platform Agreement

I am writing to set out the terms we have agreed for OPEN SYSTEMS LAB LIMITED ("OSL") to provide its PlanX platform, and associated services, to [CUSTOMER'S FULL COMPANY NAME] (the "Customer").

The Customer intends to use the PlanX platform to provide automated planning advice to members of the public and to assist members of the public to assess and submit prospective planning applications.

Together with this Engagement Letter, the attached Terms of Service and any other Schedules, form the "Agreement" between OSL and the Customer. This Agreement will become effective on the Effective Date set out below. In the event of a conflict between this Engagement Letter, the Terms of Service and the Schedules, the order of precedence will be as follows: 1) Engagement Letter, 2) Terms of Service, 3) The Data Protection Schedule and 4) The Statement of Processing Activity.

Any terms defined in one part of this Agreement shall be interpreted accordingly in the other parts of this Agreement. OSL may, from time to time, offer additional products or services subject to additional terms.

Please would you sign and return the enclosed copy of this Engagement Letter to indicate the agreement of [CUSTOMER'S FULL COMPANY NAME] to the terms of this Agreement.

Commercial terms

Effective Date	[The date of signature by both parties/[INSERT DATE]]	
Live Date	[INSERT DATE]	
Initial Term	From the Effective Date until [] months after the Live Date.	
Renewal Term	[] months from the expiry of the Initial Term.	
Customer Systems & information	[INSERT A DESCRIPTION OF THE CUSTOMER'S SYSTEMS AND APIS TO BE INTEGRATED UNDER THIS AGREEMENT. THIS MAY INCLUDE SYSTEMS MADE AVAILABLE BY THIRD PARTIES, BUT WHICH THE CUSTOMER IS ABLE TO USE UNDER A LICENCE.]	
Customer contractors	LIST ANY NAMED CONTRACTORS WHO WILL BE GIVEN ACCESS TO THE CUSTOMER'S DOMAIN	
Supplier third party services	LIST THE THIRD PARTY SERVICES BEING USED BY THE SUPPLIER TO DELIVER THE SERVICE	
Implementation	[DESCRIBE WHAT TECHNICAL WORK WILL BE UNDERTAKEN BY OSL TO INTEGRATE THE CUSTOMER'S SYSTEMS WITH THE PLATFORM, FOR EXAMPLE APIS]	
Customer Implementation	[DESCRIBE WHAT TECHNICAL WORK WILL BE UNDERTAKEN BY THE CUSTOMER TO INTEGRATE THE CUSTOMER'S SYSTEMS WITH THE PLATFORM, FOR EXAMPLE iFRAMING]	
Training & support Services	[ADD DETAILS OF TRAINING AND SUPPORT TO BE PROVIDED AS PART OF THIS AGREEMENT]	
Fees	Implementation Fees	£[]
	Subscription fees	£[] / year, with effect from the Live Date.
	Support / training fees	£[] / []
Notices	<p>When sending notices to OSL, please email them marked for the attention of [OSL Account manager's name here] to: contact@planx.uk</p> <p>Notices to the Customer will be marked for the attention of [INSERT CONTACT NAME] and sent by email to: [CUSTOMER EMAIL ADDRESS]</p>	
Additional Terms	This agreement does not affect the Customer's right to access and use those parts of the source code that may be shared under an open licence.	

Yours sincerely

[DIRECTOR] for and on behalf of
OPEN SYSTEMS LAB LIMITED

[CUSTOMER'S FULL COMPANY NAME] agrees to the terms of this Agreement.

Name: _____

Position: _____

Signed for and on behalf of [CUSTOMER'S FULL COMPANY NAME]:

Date: _____

PlanX Terms of Service

v2.1

Agreed between **Open Systems Lab** and the **Customer**

1. Definitions

1.1 The following definitions apply to this Agreement:

"Business Day": means any day which is not a Saturday, Sunday or public holiday in the UK.

"Applicant": means an individual who uses the Platform to assess and submit a planning application, or otherwise seeks planning advice by use of the Platform.

"Customer Information": means content, text, images, data (including GIS data and Local Land and Property Gazetteer Data), branding, trademarks, policy rules, workflows, guidance, advice, responses and other planning materials provided to OSL by or on behalf of the Customer or any Applicant, for hosting on the Platform, or otherwise made accessible by any Customer Systems.

"Customer Implementation": means the services for the integration of the Platform with the Customer Systems, to be undertaken by the Customer, as set out in the Engagement Letter.

"Customer Systems": means the software, systems and applications set out in the Engagement Letter, whether owned by or licensed to the Customer.

"Effective Date": has the meaning set out in the Engagement Letter.

"Engagement Letter": means the engagement letter to which these Terms of Service are attached.

"Fees": means the Implementation Fees, Licence Fees and any other fees set out in the Engagement Letter.

"Initial Term": means the period set out in the Engagement Letter, commencing on the Live Date.

"Implementation": means customisation services and the integration of the Customer Systems with the Platform, as set out in the Engagement Letter, and Implement and

Implemented shall be interpreted accordingly.

"Implementation Fees": means the fees payable in consideration of the Implementation, as set out in the Engagement Letter.

"Intellectual Property Rights": means all copyright and related rights, patents, rights to inventions, utility models, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, or processes, concepts or ideas, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection.

"Licence Fees": means the annual fees payable by the Customer to OSL in consideration of the grant of licences to OSL to use the Platform, hosting and updates.

"Live Date": means the later of the date of completion of the Implementation (if any) and the date set out in the Engagement Letter.]

"OSL" means Open Systems Lab

"OSL Databases" means any databases licensed to OSL (and not the Customer) which are incorporated into the Platform or accessible by the Platform.

"Platform": means the online service owned (or licensed to) and operated by OSL, known as 'PlanX', including any OSL Databases, and used by third parties and their Customers for the purpose of providing automated planning advice to Applicants and assisting Applicants to assess and submit prospective planning applications.

"Public Sector Organisation": means a non-profit generating organisation which is wholly owned and operated by government or a local

authority.

“Reports”: means the [] reports in respect of the Customer’s and Applicants use of the Platform as enabled by the Platform from time to time, and any planning applications submitted by Applicants.

“Renewal Term”: means the period set out in the Engagement Letter and in clause 11.1.

“Services”: means the Implementation, Platform, Training Services, Reports, and other services that may be provided by OSL under this Agreement.

“Term”: means the term of the Agreement, starting on the Effective Date and ending on the expiry of the Initial Term or any Renewal Term (as applicable) or on earlier termination, in either case in accordance with clause 11.

“Training Fees”: means the fees payable in respect of any training or support provided by OSL, as set out in the Engagement Letter.

“Customer’s domain”: means the web address through which the Customer’s content is made available to the public via the Platform.

1.2 A **“person”** includes a natural person, corporate or unincorporated body.

1.3 **“Writing”** includes email.

1.4 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

1.5 The words “include” and “including” (or similar) shall be deemed to have the words “without limitation” after them.

2. Services

2.1 Implementation

2.1.1 On the Effective Date, the Customer will provide the Customer Information and, where possible, access to the Customer Systems in any format reasonably requested by OSL, to the extent that the Customer has the right to do so.

2.1.2 From the Effective Date OSL will use all reasonable endeavours to complete Implementation within [X] days of receipt of all Customer Information and access to all Customer Systems (unless otherwise specified in the Engagement Letter) in accordance with clause 2.1.1.

2.1.3 The Customer will provide any cooperation that is reasonably requested by OSL to assist OSL to complete the Implementation.

2.1.4 Implementation will be deemed to have been completed on notice from OSL to the Customer.

2.1.5 The Customer shall undertake to create

and use an account on required complementary services, namely Gov.uk Notify and, in cases where the Customer wishes to use the platform to run ‘Apply for..’ services, Gov.uk Pay. The Customer shall also be responsible for maintaining their content on these services, and provide OSL with such information as may be required to integrate with those services.

2.2 Platform

2.2.1 OSL will provide access to the Platform, including any updates to the Platform that OSL makes generally available from time to time.

2.2.2 OSL will allocate a Platform system administrator username and password to the Customer;

2.2.3 OSL will, on request of the Customer, allocate up to two additional Platform system administrator usernames and passwords to the Customer;

2.2.4 The Customer may allocate Platform User usernames and passwords to its employees, or personnel, subject to the access rights granted to such individuals at the discretion of the Customer.

2.2.5 The Customer will keep its Platform passwords confidential. OSL will not be liable for any losses or damage suffered by the Customer due to the disclosure of its password.

2.2.6 The Customer will change any of its passwords when prompted.

2.3 Customer Implementation and Maintenance

2.3.1 The Customer will undertake the Customer Implementation and any other work reasonably requested by OSL to enable the Implementation.

2.3.2 The Customer will assist the maintenance of the Implementation to the extent maintenance requires work to be undertaken in respect of the Customer Systems.

2.3.3 As soon as practicable after becoming aware, the Customer will notify OSL of any actual or anticipated downtime of Customer Systems, and actual or anticipated failure or defect in the Implementation arising in respect of the Customer Systems.

2.4 **Reports:** OSL will deliver Reports to the Customer promptly on the Customer’s written request.

2.5 **Hosting:** OSL will, at its own expense, procure the hosting of an instance of the Platform on its behalf by Amazon Web Services.

2.6 Training and other support services

2.6.1 OSL shall provide the Training Services to the Customer, once per contract year, at a time to be agreed by the parties acting reasonably.

2.6.2 Each party shall, and shall use all reasonable endeavours to ensure that its personnel shall, comply with any on site procedures and health and safety policies of the other party when attending the other party's premises for the purposes of the Training Services.

2.7 General

2.7.1 The Customer's access to the Service is limited to the Customer and its representatives.

2.7.2 The Customer will use all reasonable endeavours to prevent any unauthorised access to, or use of, the Service and notify OSL promptly of any such unauthorised access or use.

2.7.3 OSL may change any aspect of the Services at its discretion. OSL will notify the Customer in writing of any changes to the Service no later than the Business Day on which the changes first take effect.

2.7.4 The Customer will properly maintain and keep up to date the Customer Information.

2.7.5 The Customer shall equip staff using the platform (as admins or editors) with a web browser (such as Firefox, Google Chrome, Safari or Microsoft Edge.) Should the Customer wish to use Internet Explorer 11 or Internet Explorer 10 (or below), it acknowledges and agrees that OSL will not be responsible for any reduced functionality.)

3. Dealing with applicants

3.1 OSL will permit Applicants to use the Platform under the terms of OSL's usual end user licence agreement from time to time.

3.2 In all other dealings with Applicants, the Customer will contract in its own name. OSL is not a party to any agreements between Applicants and the Customer.

4. Licence

4.1 Subject to the terms and conditions of this Agreement, OSL hereby grants to the Customer a revocable, non-exclusive, non-transferable, non-sublicensable licence to:

4.1.1 integrate the Customer Systems with the Platform; and

4.1.2 access the Platform as hosted by OSL; and

4.1.3 to use the Reports for its information only.

4.2 Subject to the terms and conditions of this Agreement, and any rights of approval of any Applicants, OSL hereby grants to the Customer an irrevocable, sole, non-transferable,

non-sublicensable licence to use exported versions of any Reports for its information only.

4.3 The rights provided under clause 4 are granted:

4.3.1 to the Customer and their nominated contractors only and not to any subsidiary or holding company of the Customer; and

4.3.2 solely for the purposes of providing automated planning advice to Applicants and assisting Applicants to assess and submit prospective planning applications.

4.4 Subject to the terms and conditions of this Agreement, the Customer hereby grants to OSL a revocable, non-exclusive, transferable, sublicensable licence to use Customer Information for the purposes of providing the Services, carrying out research, and publishing Customer Information to prospective Applicants, only as far as the Customer is legally entitled to do so.

5. Payment

5.1 OSL will invoice the Customer for the Implementation Fees on the Effective Date.

5.2 OSL will invoice the Customer for the Licence Fees annually in advance, with effect from the Live Date.

5.3 Subject to any contrary terms set out in the Engagement Letter, during the Term, OSL will invoice the Customer monthly in arrears for any expenses and any other Fees incurred during the preceding calendar month.

5.4 All invoices will be paid by the Customer within 30 days of receipt of the invoice.

5.5 Time for payment by the Customer is of essence for the Agreement. Without prejudice to any other rights or remedy that OSL may have, if the Customer fails to make any payment as it falls due:

5.5.1 OSL may charge interest on the unpaid amount at a rate of [4]% p.a. above the Bank of England base rate, accruing on a daily basis and being compounded quarterly, incurring from the due date for payment until payment is made, whether before or after any judgment; and/or

5.5.2 OSL may suspend all Services and access until payment is made in full.

5.6 All payments of Fees to OSL must be made without deduction or set-off. All amounts payable under this agreement are exclusive of VAT.

6. Warranties

- 6.1 Each of the parties warrants that:
- 6.1.1 it has full power and authority to enter into this Agreement;
- 6.1.2 it has all the rights necessary for any licence it grants under at clause 4; and
- 6.1.3 it will perform its obligations under this Agreement in accordance with all applicable laws.
- 6.2 OSL warrants that it will provide the Services with reasonable skill and care.
- 6.3 The Customer warrants that:
- 6.3.1 all information it submits to OSL, including any Customer Information, is truthful, accurate (to the best of Customer's knowledge and belief), in the correct format, will be kept up to date, and complies with all applicable laws;
- 6.3.2 it is the owner or operator of, or the holder of a valid and subsisting licence for, the Customer Systems and is permitted to integrate the Customer Systems with the Platform;
- 6.3.3 it will not use the Services to build a product or service which competes with OSL or the Services.

7. Proprietary Rights

- 7.1 OSL and/or its licensors own all Intellectual Property Rights in the Platform Software and its related Services and trademarks, or created by delivery, use or operation of the Services. OSL does not grant the Customer any Intellectual Property Rights in respect of the Services or any related content or materials, except as expressly granted in a separate licence (for example an open source software licence).
- 7.2 OSL reserves the right to offer licences of the Platforms to any third parties on any terms OSL considers appropriate in its sole discretion.
- 7.3 The Customer shall not change, create derivative works of or reverse engineer (or attempt to do any of the following) the Platform, or remove or obscure any notices set out on the Platform except to the extent permitted under an open source licence granted by OSL.
- 7.4 Content written by the Customer remain the intellectual property of the Customer, however, by entering such content onto the platform, the Customer grants to OSL a non-exclusive licence to use, distribute or modify that content for any purpose.
- 7.5 All content published by the Customer via the Platform, whether made available only to the public through the Customer's domain, or also to

other Customers, shall by default be published under the latest version of the Open Government Licence (OGL).

8. Confidentiality

- 8.1 In this clause, "Confidential Information" means the Reports and any other information that is clearly labelled or identified as confidential or ought reasonably be treated as being confidential. Confidential Information excludes any information which:
- 8.1.1 the Customer provides to OSL for display or publication on the Platform, which may include Customer Information;
- 8.1.2 is or becomes publicly known other than through a breach of this Agreement;
- 8.1.3 was in the receiving party's lawful possession before the disclosure;
- 8.1.4 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- 8.1.5 is independently developed by the receiving party and that independent development can be shown by written evidence; or
- 8.1.6 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 8.2 Each party will hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party unless that third party is subject to an equivalent duty of confidentiality. Neither party will use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 8.3 Each party will take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees, agents or independent contractors in breach of the terms of this Agreement.
- 8.4 This clause 8 will survive termination of this Agreement.

9. Data Protection

The Data Protection Schedule shall apply in respect of any personal data processed under this Agreement.

10. Limitation of Liability

This clause 10 sets out OSL's entire financial

liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

- 10.1.1 arising under or in connection with this Agreement;
 - 10.1.2 in respect of any OSL Databases or third party software incorporated into or assessed by use of the Platform;
 - 10.1.3 in respect of Customer Systems;
 - 10.1.4 in respect of any use made by the Customer or any Applicant of the Services or any part of them;
 - 10.1.5 in respect of the acts or omissions of any Applicant;
 - 10.1.6 in respect of any loss of Customer Information; and
 - 10.1.7 in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 10.2 Except as expressly and specifically provided in this Agreement the Customer assumes sole responsibility for its use of the Services, and for the results of, or conclusions drawn from, such use. OSL will have no liability for any damage caused by errors or omissions in any Reports. The Customer is wholly responsible for all content that is published through the Customer domain, this includes content that may have been written by or with OSL or others, including content written by others and published via the platform under open licence. In all cases the Customer is responsible for checking content before it is published on the Customer domain, and satisfying themselves that it is consistent with their policies and guidance. OSL does not moderate, monitor, modify or amend any content created by the Customer and/or its users and published via the Platform, and OSL disclaims all liability in respect of the same.
- 10.3 The Services are provided "as is" to the fullest extent permissible pursuant to applicable law. Save as set out in this Agreement, OSL disclaims all warranties and conditions express or implied, including, but not limited to, implied warranties of satisfactory quality and fitness for a particular purpose, in relation to the Services, their use and the results of such use. Save as set out in this Agreement, OSL specifically disclaims any warranty:
- 10.3.1 in respect of any OSL Databases or third party software incorporated into or assessed by use of the Platform;
 - 10.3.2 in respect of Customer Systems;
 - 10.3.3 that the Services and their availability will

- be uninterrupted or error-free;
 - 10.3.4 in respect of reduced functionality of the Platform should the Customer choose to use a web browser which is not supported by the Platform (i.e. Internet Explorer version 11 or below);
 - 10.3.5 that defects will be corrected;
 - 10.3.6 that there are no viruses or other harmful components;
 - 10.3.7 that the security methods employed will be sufficient;
 - 10.3.8 regarding correctness, accuracy, or reliability.
- 10.4 All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are excluded from this Agreement to the fullest extent permitted by applicable law.
- 10.5 Nothing in this Agreement excludes the liability of OSL:
- 10.5.1 for death or personal injury caused by OSL's negligence;
 - 10.5.2 for fraud or fraudulent misrepresentation; or
 - 10.5.3 any statutory liability not capable of limitation.
- 10.6 Subject to clause 10.5, OSL will not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this Agreement.
- 10.7 Subject to clause 10.5, OSL's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement will be limited to the higher of **£10,000** and the total Fees actually received by OSL from the Customer under this Agreement, and other monies received from the Customer in connection with this Agreement, in the 12 month period preceding the date on which the claim arose.

11. Term and termination

- 11.1 This Agreement will commence on the Effective Date and will continue until the expiry of the Initial Term unless otherwise terminated as

provided in this clause 11. On the expiry of the Initial Term, this Agreement will automatically renew for the Renewal Term unless either party notifies the other of its intention to terminate the Agreement, in writing, at least 90 days before the end of the Initial Term or Renewal Term then in effect.

11.2 OSL can immediately terminate this Agreement at any time, on written notice to the Customer.

11.3 This Agreement can be terminated by either party if the other party:

11.3.1 is in material breach of this Agreement and (if remediable) fails to remedy such breach within 14 days of a written request notice from the other party to do so; or

11.3.2 ceases trading (or threatens to cease trading); is subject to an order for winding up; has an administrator or liquidator appointed (or such appointment is entitled or is requested in good faith); is the subject of a bankruptcy petition or order; becomes insolvent; is incapable of paying its debts as they fall due; makes any arrangement with its creditors for the payment of its debts.

11.4 Any termination is without prejudice to either party's accrued rights or remedies.

11.5 On termination of this Agreement for any reason:

11.5.1 all revocable licences granted under this Agreement will immediately terminate.

11.6 The accrued rights and remedies of the parties, clauses [X], and any agreements between the Customer and any Applicant, will survive termination of this Agreement for any reason.

12. Non-solicitation

Neither party shall, nor seek to, solicit or entice away from the employment or engagement of the other party, any of the other party's employees or personnel that are or have been involved in the provision or receipt of the Services, other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the personnel of the other party. This clause shall survive termination of this Agreement for [six months].

A waiver of this clause, or a reduction in the non-solicitation period may be requested by either party and agreed in writing at any time.

13. Publicity

Each party can refer to the other as its customer or supplier in any of its marketing materials, including on its website or marketing pitch documentation, including by use of the other party's trade marks.

14. Force majeure

No party will be in breach of this Agreement nor liable for any failure to perform its obligations under this Agreement, if that failure results from circumstances beyond its reasonable control.

15. Waiver

A waiver of any right under this Agreement is only effective if it is in writing.

16. Severance

If any provision (or part of a provision) of this Agreement is found to be invalid, unenforceable or illegal, the other provisions (or parts of any provisions) will remain in force.

17. Entire Agreement

This Agreement constitutes the whole agreement between the parties and supersedes any previous agreement between them.

18. Assignment

Neither party will assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement, without the prior written consent of the other party.

19. Third Party Rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and (where applicable) their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. Notices

20.1 Any notice required to be given under this Agreement will be in writing and will be sent by

email to the contact email address set out in the Engagement Letter.

20.2 Notices will be deemed to have been received at the time of transmission as shown by the sender's records (or if sent outside business hours, at 9 am on the first Business Day following despatch).

21. **Governing law and jurisdiction**

This Agreement will be governed by, and construed in accordance with, the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.

Data Protection Schedule

An agreement between the **Customer** and **Open Systems Lab** as a processor of personal data on behalf of the Customer. This schedule is based on the standard template [published by the Crown Commercial Service](#), with some alterations, which are **highlighted**.

Standard Definitions

Party: a Party to this Agreement

Agreement: this contract;

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;

Processor Personnel: means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

GDPR Clause Definitions

Data Protection Legislation: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer take the meaning given in the GDPR.

Data Loss Event: any event that results, or

may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: Data Protection Act 2018

GDPR: the General Data Protection Regulation (Regulation (EU) 2016/679)

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing

LED: Law Enforcement Directive (Directive (EU) 2016/680)

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those outlined in the [Security section of the Technical Specification].

Sub-processor: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement

1. Data Protection

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and OSL is the Processor unless otherwise specified in **[Statement Of Processing Activity (SOPA)]**. The only processing that the Processor is authorised to do is listed in [the **Statement Of Processing Activity (SOPA)**] by the Controller and may not be determined by the Processor.

1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include: (a) a systematic description of the envisaged processing operations and the purpose of the processing; (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services; (c) an assessment of the risks to the rights and freedoms of Data Subjects; and (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement: (a) process that Personal Data only in accordance with [the **Statement Of Processing Activity (SOPA)**], unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law; (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the: (i) nature of the data to be protected; (ii) harm that might result from a Data Loss Event; (iii) state of technological development; and (iv) cost of implementing any measures; (c) ensure that: (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular [the

Statement Of Processing Activity (SOPA)]); (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they: (A) are aware of and comply with the Processor's duties under this clause; (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor; (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and (D) have undergone adequate training in the use, care, protection and handling of Personal Data; (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled: (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller; (ii) the Data Subject has enforceable rights and effective legal remedies; (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; and (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

1.5.1 Subject to clause 1.6, the Processor shall notify the Controller immediately if it: (a) receives a Data Subject Request (or purported Data Subject Request); (b) receives a request to rectify, block or erase any Personal Data; (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation; (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement; (e) receives a request from any

third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or (f) becomes aware of a Data Loss Event.

1.5.2 If the person or organisation making such a request has forbidden the notification of the controller, then clause 1.5.1 will not apply, and the processor shall inform the subject that the processor is only able to respond to such a request on the controller's instruction.

1.6 The Processor's obligation to notify under clause 1.5.1 shall include the provision of further information to the Controller in phases, as details become available.

1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5.1 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing: (a) the Controller with full details and copies of the complaint, communication or request; (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation; (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject; (d) assistance as requested by the Controller following any Data Loss Event; (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless: (a) the Controller determines that the processing is not occasional; (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or (c) the Controller determines that the processing is likely to

result in a risk to the rights and freedoms of Data Subjects.

1.9 The Processor shall allow for reasonable audits of its Data Processing activity (at the Customer's sole cost) by the Controller or by an independent auditor designated by the Customer. The controller shall give at least [2] weeks notice of any such audit, and the results of the audit must be made available to the processor after the completion of that audit.

1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.

1.11 The controller gives the processor general authorisation to appoint appropriate sub-processors, on the condition that before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

(a) notify the Controller in writing of the intended Sub-processor and processing; (b) enter into a written agreement with the Sub-processor consistent with the terms of this agreement; and (c) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

1.15 Where the Parties include two or more Joint Controllers as identified in [the

Commercial Agreement] in accordance with
GDPR Article 26, those Parties shall enter into
a Joint Controller Agreement in replacement

of Clauses 1.1-1.14 for the Personal Data
under Joint Control.

Statement of Processing Activity (SOPA)

These are the terms by which the **Customer**, as Data Controller, instructs **Open Systems Lab** to process personal data, for the purposes of Data Protection legislation. It forms part of the agreement, and cannot be altered except in writing by both parties.

Identity of the Controller and Processor

The Parties acknowledge that for the purposes of the Data Protection Legislation, the **Customer** is the **Controller** and **Open Systems Lab (OSL)** is the **Processor** in accordance with Clause 1.1

Subject matter of the processing

The data relates to planning enquiries and applications. This processing is needed to allow the Customer to use PlanX to provide planning services to members of the public.

Duration of the processing

The processing will take place from the start date of the Agreement to the end date or date of Termination of the agreement, plus any additional retention period agreed in writing between the parties.

Type of Personal Data being Processed

When an applicant or an agent acting on behalf of an applicant uses PlanX, the specific information they are asked to provide will be determined by the **Customer** through the PlanX editor. This information may include:

User & applicant data Such as *name, address, email address, a username* (unless using a third party login), a *password* (unless using a third party login) and *information about the user's relationship with the property or application in question*.

Property data Information relating to the property in question, such as its *address and precise location* which, in some cases could be personal data.

Device data

In the course of using the platform, OSL (or its subprocessors) may also process the user's *IP address*.

Nature and purposes of the processing

OSL and its sub-processors may do any of the following with this data: collect it, store it, structure it, classify it, organise it, adapt it, retrieve it, analyse it, encrypt it, combine it with other data, transmit it, display it or otherwise make it available (including for example via a secure interface, a report or an API), and ultimately erase it. These activities may be done by automated or manual means.

The purposes for this processing are to:

- provide automated guidance relevant to your planning enquiry or application.
- convey planning enquiries or applications to the **Customer**.
- convey (including by email) service notifications or access links to the user.
- provide such analytics or feedback as may inform

the **Customer**, in order to provide a better planning service.

– ensure the successful running and security of the platform.

Categories of Data Subject

Users of PlanX who may include planning applicants (or prospective applicants), agents representing planning applicants (or prospective applicants) or other members of the public seeking planning information.

Plan for return and destruction of the data once the processing is complete

OSL will not retain copies of any personal data for any longer than is necessary to provide the service and any potential backup requirements: up to a maximum of **6 months from when the application is started**.

IP addresses should not be retained for any longer than **30 days**.